

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

MARIE ENCARN ARNOLD,

Plaintiff,

V.

UNITED STATES OF AMERICA, *et al.*,

Defendants.

Case No. 2:25-cv-00123-CDS-NJK

REPORT AND RECOMMENDATION

[Docket No. 1]

Plaintiff has requested authority pursuant to 28 U.S.C. § 1915 to proceed *in forma pauperis*.

Docket No. 1.

The Court may authorize the commencement of an action without prepayment of fees and costs, or security therefor, by a person who has shown an inability to pay such costs. 28 U.S.C. § 1915(a)(1). A determination of whether the plaintiff has shown an inability to pay is a matter left to the discretion of the Court. *See, e.g., Flores v. Colvin*, 2014 U.S. Dist. Lexis 93236, at *2 (D. Nev. May 22, 2014), *adopted*, 2014 U.S. Dist. Lexis 93234 (D. Nev. July 9, 2014). In exercising that discretion, the Court evaluates the income and assets to which the plaintiff has access, as well as monthly expenses. *See, e.g., id.* at *3-4. While an applicant need not be absolutely destitute to qualify for a waiver of costs and fees, the applicant must demonstrate an inability to pay those costs while still providing for the necessities of life. *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339 (1948).

Plaintiff's application identifies a take-home monthly income of \$4,516. Docket No. 1 at 1. The application identifies monthly expenses less than Plaintiff's income. *Id.* at 2 (identifying expenses totaling \$3,333). Further, Plaintiff has \$104,751 on hand. *See id.* In light of these

1 circumstances, the Court cannot find that Plaintiff is unable to pay the filing fee while still
2 providing for the necessities of life.

3 Accordingly, the undersigned **RECOMMENDS** that the application to proceed *in forma*
4 *pauperis* be **DENIED** and that Plaintiff be required to pay the filing fee.

5 Dated: February 25, 2025

6
7
8
9

Nancy J. Koppe
United States Magistrate Judge

10
11
12
13
14
15
NOTICE

16 This report and recommendation is submitted to the United States District Judge assigned
17 to this case pursuant to 28 U.S.C. § 636(b)(1). A party who objects to this report and
18 recommendation must file a written objection supported by points and authorities within fourteen
19 days of being served with this report and recommendation. Local Rule IB 3-2(a). Failure to file
20 a timely objection may waive the right to appeal the district court's order. *Martinez v. Ylst*, 951
21 F.2d 1153, 1157 (9th Cir. 1991).

22
23
24
25
26
27
28